

104TH CONGRESS
2D SESSION

H. R. 3536

To amend title 49, United States Code, to require an air carrier to request and receive certain records before allowing an individual to begin service as a pilot, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 29, 1996

Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. OBERSTAR, Mr. LIPINSKI, and Mr. HEINEMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to require an air carrier to request and receive certain records before allowing an individual to begin service as a pilot, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airline Pilot Hiring
5 and Safety Act of 1996”.

6 **SEC. 2. EMPLOYMENT INVESTIGATIONS OF PILOTS.**

7 (a) IN GENERAL.—Chapter 447 of title 49, United
8 States Code, is amended by redesignating section 44723

1 as section 44724 and by inserting after section 44722 the
2 following:

3 **“§ 44723. Preemployment review of prospective pilot**
4 **records**

5 “(a) PILOT RECORDS.—

6 “(1) IN GENERAL.—Before allowing an individ-
7 ual to begin service as a pilot, an air carrier shall
8 request and receive the following information:

9 “(A) FAA RECORDS.—From the Adminis-
10 trator of the Federal Aviation Administration,
11 information pertaining to the individual that is
12 maintained by the Administrator concerning—

13 “(i) current airman certificates (in-
14 cluding airman medical certificates) and
15 associated type ratings, including any limi-
16 tations thereon; and

17 “(ii) summaries of legal enforcement
18 actions which have resulted in a finding by
19 the Administrator of a violation of this
20 title or a regulation prescribed or order is-
21 sued under this title and which have not
22 been subsequently overturned.

23 “(B) AIR CARRIER RECORDS.—From any
24 air carrier (or the trustee in bankruptcy for the
25 air carrier) that has employed the individual at

1 any time during the 5-year period preceding the
2 date of the employment application of the indi-
3 vidual—

4 “(i) records pertaining to the individ-
5 ual that are maintained by an air carrier
6 (other than records relating to flight time,
7 duty time, or rest time) under regulations
8 set forth in—

9 “(I) section 121.683 of title 14,
10 Code of Federal Regulations;

11 “(II) paragraph (A) of section
12 VI, appendix I, part 121 of such title;

13 “(III) paragraph (A) of section
14 IV, appendix J, part 121 of such title;

15 “(IV) section 125.401 of such
16 title; and

17 “(V) section 135.63(a)(4) of such
18 title; and

19 “(ii) other records pertaining to the
20 individual that are maintained by the air
21 carrier concerning—

22 “(I) the training, qualifications,
23 proficiency, or professional com-
24 petence of the individual, including
25 comments and evaluations made by a

1 check airman designated in accord-
2 ance with section 121.411, 125.295,
3 or 135.337 of such title;

4 “(II) any disciplinary action
5 which was taken by the air carrier
6 with respect to the individual and
7 which was not subsequently over-
8 turned by the air carrier; and

9 “(III) any release from employ-
10 ment or resignation, termination, or
11 disqualification with respect to em-
12 ployment.

13 “(C) NATIONAL DRIVER REGISTER
14 RECORDS.—From the chief driver licensing offi-
15 cial of a State, information concerning the
16 motor vehicle driving record of the individual in
17 accordance with section 30305(b)(7) of this
18 title.

19 “(2) 5-YEAR REPORTING PERIOD.—A person is
20 not required to furnish a record in response to a re-
21 quest made under paragraph (1) if the record was
22 entered more than 5 years before the date of the re-
23 quest, unless the information is about a revocation
24 or suspension of an airman certificate or motor vehi-

1 cle license that is still in effect on the date of the
2 request.

3 “(3) REQUIREMENT TO MAINTAIN RECORDS.—
4 The Administrator and each air carrier (or the
5 trustee in bankruptcy for the air carrier) shall main-
6 tain pilot records described in paragraph (1) for a
7 period of at least 5 years.

8 “(4) WRITTEN CONSENT FOR RELEASE.—Nei-
9 ther the Administrator nor any air carrier may fur-
10 nish a record in response to a request made under
11 paragraph (1) (A) or (B) without first obtaining the
12 written consent of the individual whose records are
13 being requested.

14 “(5) DEADLINE FOR PROVISION OF INFORMA-
15 TION.—A person who receives a request for records
16 under paragraph (1) shall furnish, on or before the
17 30th day following the date of receipt of the request
18 (or on or before the 30th day following the date of
19 obtaining the written consent of the individual in the
20 case of a request under paragraph (1) (A) or (B)),
21 all of the records maintained by the person that
22 have been requested.

23 “(6) RIGHT TO RECEIVE NOTICE AND COPY OF
24 ANY RECORD FURNISHED.—A person who receives a
25 request for records under paragraph (1) shall pro-

1 vide to the individual whose records have been re-
2 requested—

3 “(A) on or before the 20th day following
4 the date of receipt of the request, written notice
5 of the request and of the individual’s right to
6 receive a copy of such records; and

7 “(B) in accordance with paragraph (9), a
8 copy of such records, if requested by the indi-
9 vidual.

10 “(7) REASONABLE CHARGES FOR PROCESSING
11 REQUESTS AND FURNISHING COPIES.—A person who
12 receives a request for records under paragraph (1)
13 or (9) may establish a reasonable charge for the cost
14 of processing the request and furnishing copies of
15 the requested records.

16 “(8) RIGHT TO CORRECT INACCURACIES.—An
17 air carrier that receives the records of an individual
18 under paragraph (1)(B) shall provide the individual
19 with a reasonable opportunity to submit written
20 comments to correct any inaccuracies contained in
21 the records before making a final hiring decision
22 with respect to the individual.

23 “(9) RIGHT OF PILOT TO REVIEW CERTAIN
24 RECORDS.—Notwithstanding any other provision of
25 a law or agreement, an air carrier shall, upon writ-

1 ten request from a pilot employed by such carrier,
2 make available, within a reasonable time of the re-
3 quest, to the pilot for review any and all employment
4 records referred to in paragraph (1)(B) pertaining
5 to the pilot's employment.

6 “(10) PRIVACY PROTECTIONS.—An air carrier
7 or employee of an air carrier that receives the
8 records of an individual under paragraph (1) may
9 use such records only to assess the qualifications of
10 the individual in deciding whether or not to hire the
11 individual as a pilot. Subject to subsection (c), the
12 air carrier or employee of an air carrier shall take
13 such actions as may be necessary to protect the pri-
14 vacy of the pilot and the confidentiality of the
15 records, including ensuring that the information con-
16 tained in the records is not divulged to any individ-
17 ual that is not directly involved in the hiring deci-
18 sion.

19 “(11) STANDARD FORMS.—The Administrator
20 may promulgate—

21 “(A) standard forms which may be used by
22 an air carrier to request the records of an indi-
23 vidual under paragraph (1); and

24 “(B) standard forms which may be used by
25 a person who receives a request for records

1 under paragraph (1) to obtain the written con-
2 sent of the individual and to inform the individ-
3 ual of the request and of the individual's right
4 to receive a copy of any records furnished in re-
5 sponse to the request.

6 “(12) REGULATIONS.—The Administrator may
7 prescribe such regulations as may be necessary—

8 “(A) to protect the personal privacy of any
9 individual whose records are requested under
10 paragraph (1) and to protect the confidentiality
11 of those records;

12 “(B) to limit the further dissemination of
13 records received under paragraph (1) by the air
14 carrier who requested them; and

15 “(C) to ensure prompt compliance with
16 any request under paragraph (1).

17 “(b) LIMITATION ON LIABILITY; PREEMPTION OF
18 STATE AND LOCAL LAW.—

19 “(1) LIMITATION ON LIABILITY.—No action or
20 proceeding may be brought by or on behalf of an in-
21 dividual who is seeking a position with an air carrier
22 as a pilot against—

23 “(A) the air carrier for requesting the indi-
24 vidual's records under subsection (a)(1);

1 “(B) a person who has complied with such
2 request and in the case of a request under sub-
3 section (a)(1) (A) or (B) has obtained the writ-
4 ten consent of the individual;

5 “(C) a person who has entered information
6 contained in the individual’s records; or

7 “(D) an agent or employee of a person de-
8 scribed in subparagraph (A) or (B);
9 in the nature of an action for defamation, invasion
10 of privacy, negligence, interference with contract, or
11 otherwise, or under any Federal, State, or local law
12 with respect to the furnishing or use of such records
13 in accordance with subsection (a).

14 “(2) PREEMPTION.—No State or political sub-
15 division thereof may enact, prescribe, issue, continue
16 in effect, or enforce any law, regulation, standard, or
17 other provision having the force and effect of law
18 that prohibits, penalizes, or imposes liability for fur-
19 nishing or using records in accordance with sub-
20 section (a).

21 “(3) PROVISION OF KNOWINGLY FALSE INFOR-
22 MATION.—Paragraphs (1) and (2) shall not apply
23 with respect to a person that furnishes in response
24 to a request made under subsection (a)(1) informa-
25 tion that the person knows is false.

1 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
 2 Nothing in this section shall be construed as precluding
 3 the availability of the records of a pilot in an investigation
 4 or other proceeding concerning an accident or incident
 5 conducted by the Secretary, the National Transportation
 6 Safety Board, or a court.”.

7 (b) CHAPTER ANALYSIS AMENDMENT.—The analysis
 8 for chapter 447 of such title is amended by striking

“44723. Annual report.”

9 and inserting

“44723. Preemployment review of prospective pilot records.

“44724. Annual report.”.

10 (c) CONFORMING AMENDMENT.—Section 30305(b)
 11 of such title is amended by redesignating paragraph (7)
 12 as paragraph (8) and by inserting after paragraph (6) the
 13 following:

14 “(7) An individual who is employed or seeking em-
 15 ployment by an air carrier as a pilot may request the chief
 16 driver licensing official of a State to provide information
 17 about the individual under subsection (a) of this section
 18 to the individual’s prospective employer or to the Secretary
 19 of Transportation. Information may not be obtained from
 20 the Register under this paragraph if the information was
 21 entered in the Register more than 5 years before the re-
 22 quest, unless the information is about a revocation or sus-
 23 pension still in effect on the date of the request.”.

1 (d) CIVIL PENALTIES.—Section 46301 of such title
2 is amended by inserting “44723,” after “44716,” in each
3 of subsections (a)(1)(A), (a)(2)(A), (d)(2), and
4 (f)(1)(A)(i).

5 (e) APPLICABILITY.—The amendments made by this
6 section shall apply to any air carrier hiring an individual
7 as a pilot on or after the 30th day after the date of the
8 enactment of this Act.

9 **SEC. 3. RULEMAKING TO ESTABLISH MINIMUM STANDARDS**
10 **FOR PILOT QUALIFICATIONS.**

11 Not later than 18 months after the date of the enact-
12 ment of this Act, the Administrator of the Federal Avia-
13 tion Administration shall issue a notice of a proposed rule-
14 making to establish—

15 (1) minimum standards and criteria for
16 preemployment screening tests measuring the bio-
17 graphical factors (psychomotor coordination), gen-
18 eral intellectual capacity, instrument and mechanical
19 comprehension, and physical fitness of an applicant
20 for employment as a pilot by an air carrier; and

21 (2) minimum standards and criteria for pilot
22 training facilities which will be licensed by the Ad-
23 ministrator and which will assure that pilots trained
24 at such facilities meet the preemployment screening
25 standards and criteria described in paragraph (1).

1 **SEC. 4. SHARING ARMED SERVICES RECORDS.**

2 (a) STUDY.—The Administrator of the Federal Avia-
3 tion Administration, in conjunction with the Secretary of
4 Defense, shall conduct a study to determine the relevance
5 and appropriateness of requiring the Secretary of Defense
6 to provide to an air carrier, upon request in connection
7 with the hiring of an individual as a pilot, records of the
8 individual concerning the individual's training, qualifica-
9 tions, proficiency, professional competence, or terms of
10 discharge from the Armed Forces.

11 (b) REPORT.—Not later than 1 year after the date
12 of the enactment of this Act, the Administrator shall
13 transmit to Congress a report on the results of the study.

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